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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,181	06/28/2001	Frank J. Ponzio JR.	4640-102	5315
25241 7590 02/15/2006 MATHEWS, COLLINS, SHEPHERD & GOULD, PA 100 THANET CR, SUITE 306 PRINCETON, NJ 08540			EXAMINER WANG, LIANG CHE A	
			ART UNIT 2155	PAPER NUMBER

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/894,181	Applicant(s) PONZIO, FRANK J.	
	Examiner Liang-che Alex Wang	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 71-90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 71-90 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 71-90 are presented for examination.
2. Claims 1-70 are cancelled.
3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/25/05 has been entered.

### ***Response to Arguments***

4. Applicant's arguments filed 11/25/2005, have been fully considered but they are not persuasive.
5. In that remarks, applicant's argues in substance:
  - a. In contrast to Baker, the applicant's present invention has three distinct parts. They include: analyzing the content of preexisting digital data; grading the results of the analysis without accessing the preexisting data; and marking in one or more forms without accessing the preexisting data.

This is not found persuasive because Baker does teach all the above-mentioned features. See rejection to claim 71.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 71-90 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claims 71 and 81 recites the limitation "the preexisting data" in lines 6, 10, 12, 13 of claim 71 and lines 7, 10, 12, 13 of claim 81. There is insufficient antecedent basis for this limitation in the claim. The Examiner views the limitation "the preexisting data" as "the preexisting digital data" for further examination.
9. Claims 72-80, are depending on a cancelled claim 70, and claims 82-90 direct to a system claim are depending on a method claim 80.
10. All dependent claims are rejected to as having the same deficiencies as the claims they depend from.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 71 and 81 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker et al., US Patent Number 5,678,041, hereinafter Baker.

13. Referring to claim 71, Baker teaches a method for signaling content quality (resource rating 101-105) of preexisting digital data (network resources) between at least two digital devices having a digital source (figure 1, network resources 101-105 are computing devices contains data resources) and a digital receiver (users 107-109 are retrieving the data resources), the preexisting digital data having a plurality of data records (list 116), each of the plurality of data records having a plurality of data fields (URL101 and Resource Rating101), the method (see title and Col 3 lines 8-32) comprising the following steps:

- a. analyzing quality of the content of preexisting digital data (Col 4 lines 44-45, administrator had subjectively categorized the network resources; “subjectively categorizing” corresponds to “analyzing”);
- b. grading the results of the analysis (Col 4 lines 44-46, network resources is categorizing into three classes corresponds to “grading”) without accessing the preexisting digital data (Col 4 lines 44-45, categorizing the already analyzed result do not require accessing the analyzed data), the grading indicative of the quality of the content of the preexisting digital data using at least one or more predefined sets of criteria (Col 4 lines 44-47, administrator categorized the network resources into three classes: NV, MV, and V);
- c. marking the grading results in at least one form without changing and without accessing the preexisting data (Col 4 lines 32-35, Col 4 lines 44-60, resources rating are marked in database 114, and since database 114 is located in proxy server 112, this marking step is done without accessing the network resources);


- d. wherein the first digital receiver (user 107-109) dynamically accesses the mark of the preexisting digital data without accessing the preexisting digital data to determine subsequent use of the preexisting digital data (Col 4 lines 60-65; Col 5 lines 8-15 and Fig. 1)
14. Referring to claim 81, claim 81 encompasses the same scope of the invention as that of the claim 71. Therefore, claim 81 is rejected for the same reason as the claim 71.

### *Conclusion*

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Liang-che Alex Wang whose telephone number is (571)272-3992. The examiner can normally be reached on Monday thru Friday, 8:30 am to 5:00 pm.
17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571)272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Liang-che Alex Wang   
February 7, 2006

  
SUPERVISORY PATENT EXAMINER